

Neifeld Docket No: PIP-69A-KATZ

BPAI appeal docket no: 2008-5179.

Application/Patent No: 09/776,714

USPTO CONFIRMATION NO: 2896

File/Issue Date: 2/6/2001

Inventor/Title: Gary M. KATZ/Method and System for Timing Promotions Based on a Prior
Receipt of Promotions

Examiner/ArtUnit: ALVAREZ/3688

Entity status: LARGE

ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22213-1450

37 CFR 41.37 APPEAL BRIEF

Sir:

In response to the final rejection dated 5/14/2000, which is further to the amendment filed 2/26/2010, which was in response to the non final office action dated 11/30/2009, which was subsequent to the decision on petition dated 11/12/2009 withdrawing the office action dated 11/18/2008, which was in response to the BPAI order dated 8/17/2009 requiring the examiner to address the undecided petition dated 12/9/2008 and the appeal brief filed 1/30/2009, which was subsequent to the supplemental appeal brief filed 1/30/2009, which was in response to the 1/15/2009 Notification of Non Compliant Brief, and further to the office action dated 11/18/2008, and further to the two appeal briefs filed 12/9/2008, the applicant files this appeal

brief.

NOTES TO THE BPAI STAFF AND PANEL

1. On 8/18/2008, the BPAI issued a docketing notice specifying appeal docket no: 2008-5179. That docketing notice has not been withdrawn, despite intervening examining corps action. Accordingly, the appellant includes that docket number in this correspondence, assuming it to be accurate and required. Rejection of appeal brief for inclusion of that BPAI docket number would be improper.
2. The examiner has not specifically responded to the requirement in your remand order to "have responses to ... the Appeal Brief filed January 30, 2009... entered in to the electronic file." However, the BPAI should not yet again remand this case to the examiner because (1) the examiner withdrew the rejections to which that Brief was directed indicating that those rejections were improper and (2) this application was filed in 2001, and the applicant has repeatedly attempted to obtain finality and repose of a BPAI decision, first appealing in 2005. Another remand would merely engender further unwarranted delay.

I. 37 CFR 41.37 (A)(1) AND (2) - NOTICE OF APPEAL, BRIEF, AND FEES

(a)(1) - This brief is filed with the notice of appeal.

(a)(2) - This brief is filed with no fee because all fees for notice of appeal and the brief were previously paid. On April 7, 2005, the applicant (1) filed a Notice of Appeal and an Appeal Brief under 37 CFR 1.192 and (2) paid the \$500 fee for a notice of appeal and for an appeal brief as set forth in 37 CFR 1.17(b) and 37 CFR 1.17(c). The current fee for filing a notice of appeal and an appeal brief is \$540 for each, or \$1080 total. The \$80 difference was submitted 12/9/2008 by USPTO deposit account authorization. No additional fees are due.

II. 37 CFR 41.37(B) - DISMISSAL OF APPEAL IF BRIEF AND FEES UNTIMELY

The filing is timely and the required fee was previously paid. Accordingly, this subsection is not relevant.

III. 37 CFR 41.37(C)(1)

The brief contains items (i) to (x) in subsections 1 - 10 below.

1. 37 CFR 41.37(c)(1)(i) Real Party in Interest

The real party in interest is Catalina Marketing Corporation, a Delaware corporation.

2. 37 CFR 41.37(c)(1)(ii) Related Appeals and Interferences

PIP-69B-KATZ, application 09/828,122, filed April 9, 2001 is a related application and has an appeal pending. That appeal was filed June 27, 2006, docketed as appeal 2010-006083 on 4/6/2010, and awaits decision.

3. **37 CFR 41.37 (c)(1)(iii) -Status of claims. A statement of the status of all the claims in the proceeding (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of those claims that are being appealed**

Claims 1-65 are canceled. Claims 66-88 are pending, are rejected, and are being appealed.

4. **37 CFR 41.37(c)(1)(iv) Status of Amendments Filed Subsequent to Final Rejection**

No amendment has been filed after final rejection.

5. **37 CFR 41.37(c)(1)(v) Summary of Claimed Subject Matter**

66. (New) A computer-implemented method comprising steps of:
receiving, using an identification input device (Fig. 1, processor 611, page 7 lines 1-4, Fig. 1 processor 652, 643,) designed to receive identification information, a first consumer identification for a first consumer (figure 1 identification input device 638; page 8 lines 8-29);
identifying, using a processor (Fig. 1, processor 611, page 7 lines 1-4), promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer (page 16 lines 4-13; Fig. 1

consumer purchase history table 617, figure 4a, 4b);

determining, using said processor, and based at least in part upon said first consumer promotions offer data, a first consumer demographic characteristic of said first consumer (page 3 lines 28 to page 4 line 3; page 16 lines 4-15; page 19 lines 13-21); and

determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer (page 16 lines 4-15; page 19 lines 13-14).

75. (New) A computer-implemented method comprising steps of:

receiving, using a request input device (Fig. 1, processor 611, page 7 lines 1-4, Fig. 1 processor 652, 643,) designed to receive consumer target parameters, a first consumer target parameter;

receiving, using an identification input device designed to receive identification information, a first consumer identification for a first consumer (figure 1 identification input device 638; page 8 lines 8-29);

identifying, using a processor (Fig. 1, processor 611, page 7 lines 1-4), promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer (page 16 lines 4-13; Fig. 1 consumer purchase history table 617, figure 4a, 4b);

determining, using said processor, and based at least in part upon said first consumer promotions offer data, a first consumer demographic characteristic of said first consumer (page

16 lines 4-15; page 19 lines 13-14); and

if said first consumer target parameter for a first consumer matches said first consumer demographic characteristic of said first consumer, determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer (page 16 lines 4-15; page 19 lines 13-14).

87. (New) A system, comprising:

an identification input device at a vendor interaction computer configured to receive a first consumer identification for a first consumer (page 8 lines 6-29; figure 1 elements 630, 636, 638);

a central database comprising a consumer identification table and a promotion table (Fig. 1, database system 610);

a processor configured to identify, using a processor, promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer (Fig. 6, step 6300, Fig. 1, element 643, 652, page 19 lines 1-30);

a processor configured to determine a first demographic characteristic of said first consumer, based at least in part upon said first consumer promotions offer data consumer (page 16 lines 4-15; page 19 lines 13-14); and

a processor configured to determine a time at which to transmit to said first consumer a subsequent promotion offer, based at least in part upon said first consumer demographic

characteristic (page 24 lines 1-20, Fig. 1, processor 611).

88. (New) A system, comprising:

a promotion interaction site configured to receive, using a request input device, a first consumer target parameter (Fig. 1, element 630, page 24 lines 10-20);

an identification input device at a vendor interaction computer configured to receive a first consumer identification for a first consumer (Fig. 1, 638, page 7 lines 22-26);

a central database comprising a consumer identification table and a promotion table (Fig. 1, element 610, page 6 lines 15-25);

a processor configured to identify, using a processor, promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer (Fig. 6, step 6300, Fig. 1, element 643, 652, page 19 lines 1-30);

a processor configured to determine a first demographic characteristic of said first consumer, based at least in part upon said first consumer promotions offer data consumer page 10 lines 10-20, Fig. 1, processor 611, page 16 lines 4-15; page 19 lines 13-14);

a processor configured to determine if said first consumer target parameter matches said first demographic characteristic of said first consumer (Page 9 lines 20-36, Fig. 1, element 611);
and

a processor configured to determine a time at which to transmit to said first consumer a subsequent promotion offer, based at least in part upon said first consumer demographic

characteristic (page 24 lines 1-20, Fig. 1, processor 611).

6. 37 CFR 41.37(c)(1)(vi) Grounds of Rejection to be Reviewed on Appeal

Whether the rejections of claims 66, 68-75, 77-81, and 85-88 under 35 USC 102 based upon Barnett USP 6,336,099 should be reversed.

Whether the rejections of claims 67, 76, and 82-84 under 35 USC 103 based upon Barnett should be reversed.

7. 37 CFR 41.37(c)(1)(vii) Argument in which each ground identified under section 37 CFR 41.37(c)(1)(vi) is treated in a separate section

See the following sections.

IV. 37 CFR 41.37(C)(VII) - ARGUMENT

Arguments are presented for each of the issues specified in 37 CFR 41.37(c)(1)(vi), in the following major sections V AND VI

V. WHETHER THE REJECTIONS OF CLAIMS 66, 68-75, 77-81, AND 85-88 UNDER 35 USC 102 BASED UPON BARNETT USP 6,336,099 SHOULD BE REVERSED

SEPARATE HEADING REQUIREMENT - CLAIMS 66 AND 88

Claim 66 reads:

66. (New) A computer-implemented method comprising steps of:

receiving, using an identification input device designed to receive identification information, a first consumer identification for a first consumer;

identifying, using a processor, promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer;

determining, using said processor, and based at least in part upon said first consumer promotions offer data, a first consumer demographic characteristic of said first consumer; and

determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer.

The office action (herein after "OA") states "determining, using said processor, and based at least in part upon said first consumer promotions offer data, a first consumer demographic characteristic of said first consumer (i.e. providing demographic data characteristic for the first consumer1user) See Figure 9);". OA 3: 6-10.

In reply, the appellant submits that Fig. 9 of Barnett relates to prompts to the consumer to enter demographic data. It has nothing to do with "determining... a first consumer demographic characteristic" based at least in part upon said first consumer promotions offer data". Claim 66 recites "determining, using said processor, and based at least in part upon said first consumer

promotions offer data, a first consumer demographic characteristic of said first consumer; and". The limitation defined by this recitation is not disclosed by Barnett.

The OA states "determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer (i.e. using consumer demographic characteristics to determine and analyzing a time period of when to issue subsequent coupon package/sets)(see Figures 9-10)." OA 3:10-14.

In reply, the appellant submits that Figs. 9 in Barnett does not disclose "determining ... a time at which to transmit to said first consumer a subsequent promotion offer", and Fig. 9 in Barnett does not disclose "determining ... a time ...[that is] based at least in part upon said first consumer demographic characteristic".

In further reply, the appellant submits that Fig. 10 in Barnett is a "block diagram of coupon package generation" (See "BRIEF DESCRIPTION OF THE DRAWINGS"), which is objectively unrelated to time determinations, and also does not disclose what the OA alleges. Claim 66 recites "determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer." The limitation defined by this recitation is not disclosed by Barnett.

Independent claim 88 is commensurate in scope for purpose of non obviousness over Barnett, with claim 66, and therefore stands or falls with claim 66 on Barnett based rejections.

Regarding claims depending from claim 66, the are copied below after which follows

relevant reasoning.

SEPARATE HEADING REQUIREMENT - CLAIM 67

67. (New) The method according to claim 66, wherein said time is also based upon the desirability of said first consumer to a promoter.

Since Barnett does not suggest determining when to transmit promotions to a consumer, it cannot suggest that the determination is further based upon anything, such as the desirability of the consumer to the promoter.

SEPARATE HEADING REQUIREMENT - CLAIM 68

68. (New) The method according to claim 66, wherein said time is also based upon the purchase history of said first consumer.

Since Barnett does not suggest determining when to transmit promotions to a consumer, it cannot suggest that the determination is further based upon anything, such as the purchase history of the consumer.

SEPARATE HEADING REQUIREMENT - CLAIM 69

69. (New) The method according to claim 66, wherein said time is also based upon the promotion redemption history of said first consumer.

Since Barnett does not suggest determining when to transmit promotions to a consumer, it cannot suggest that the determination is further based upon anything, such as the promotion redemption history of the consumer.

SEPARATE HEADING REQUIREMENT - CLAIM 73

73. (New) The method according to claim 66, wherein said time is also based upon the value of said subsequent promotion offer.

Since Barnett does not suggest determining when to transmit promotions to a consumer, it cannot suggest that the determination is further based upon anything, such as value of the subsequent promotion offer.

Regarding claim 73, the OA states "With respect to claims 73, 85 Barnett further teaches wherein said time is also based upon the value of said subsequent promotion offer (col. 13, lines 30-41)." The appellant disagrees. Barnett column 13 lines 30-41 read as follows:

The amount of redemption discount included with a coupon downloaded to a user may be varied depending on certain demographic information that the system has about the user. For instance, the system may provide a certain value for known users of a brand (which information it will obtain by demographic inquiry or through previous redemptions in the system), and it may provide a higher discount in order to provide an incentive to users of a competitive brand. The ability to vary the value of a discount offer in accordance with such demographic and usage data is a unique advantage offered by the system of the present invention and heretofore unavailable in the prior art.

Nothing in the passages suggests determining time of transmission of an incentive based upon anything, much less "the value of said subsequent promotion offer." In fact, all this passage from Barnett says about value of a discount is that "The ability to vary the value of a discount offer in accordance with such demographic and usage data is a unique advantage offered by the system"

SEPARATE HEADING REQUIREMENT - CLAIM 74

74. (New) The method according to claim 66, wherein said time is also based upon the provision method of a prior promotion offer.

Since Barnett does not suggest determining when to transmit promotions to a consumer, it cannot suggest that the determination is further based upon anything, such as method by which the prior promotion offer was provided to the consumer.

SEPARATE HEADING REQUIREMENT - CLAIM 77

Independent claim 75 recites:

"if said first consumer target parameter for a first consumer matches said first consumer demographic characteristic of said first consumer, determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer."

The OA fails to address this limitation. Accordingly, it fails to make a prima facie case as to claim 75.

Moreover, this recitation of claim 75 requires a determination of whether to determine a time at which to transmit a subsequent promotion offer to a consumer, contingent upon whether a first consumer target parameter matches said first consumer demographic characteristic.

Barnett does not disclose or suggest this limitation.

Regarding claims depending from claim 75, the are copied below after which follows relevant reasoning.

SEPARATE HEADING REQUIREMENT - CLAIM 76

76. (New) The method according to claim 75, wherein said time is also based upon

the desirability of said first consumer to a promoter.

SEPARATE HEADING REQUIREMENT - CLAIM 77

77. (New) The method according to claim 75, wherein said time is also based upon the purchase history of said first consumer.

SEPARATE HEADING REQUIREMENT - CLAIM 78

78. (New) The method according to claim 75, wherein said time is also based upon the promotion redemption history of said first consumer.

SEPARATE HEADING REQUIREMENT - CLAIM 82

82. (New) The method according to claim 75, wherein said time is also based upon a promoter providing a desired number of promotions during a particular time period.

SEPARATE HEADING REQUIREMENT - CLAIM 83

83. (New) The method according to claim 75, wherein said time is also based upon a retail store providing a desired number of promotions during a particular time period.

SEPARATE HEADING REQUIREMENT - CLAIM 84

84. (New) The method according to claim 75, wherein said time is also based upon the desirability of said first consumer to a retail store.

SEPARATE HEADING REQUIREMENT - CLAIM 85

85. (New) The method according to claim 75, wherein said time is also based upon the value of said subsequent promotion offer.

SEPARATE HEADING REQUIREMENT - CLAIM 86

86. (New) The method according to claim 75, wherein said time is also based upon the provision method of a prior promotion offer.

As noted for claims 67-69, since Barnett does not disclose determining a time at which to transmit a subsequent promotion, and therefore does not suggest the additional dependency in each of these claims 76-78, and 82-86.

VI. WHETHER THE REJECTIONS OF CLAIMS 67, 76, AND 82-84 UNDER 35 USC 103 BASED UPON BARNETT SHOULD BE REVERSED

SEPARATE HEADING REQUIREMENT - CLAIM 67

67. (New) The method according to claim 66, wherein said time is also based upon the desirability of said first consumer to a promoter.

Since Barnett does not suggest determining when to transmit promotions to a consumer, it cannot suggest that the determination is further based upon anything, such as the desirability of the consumer to the promoter.

SEPARATE HEADING REQUIREMENT - CLAIM 76

76. (New) The method according to claim 75, wherein said time is also based upon the desirability of said first consumer to a promoter.

SEPARATE HEADING REQUIREMENT - CLAIM 82

82. (New) The method according to claim 75, wherein said time is also based upon a promoter providing a desired number of promotions during a particular time period.

SEPARATE HEADING REQUIREMENT - CLAIM 83

83. (New) The method according to claim 75, wherein said time is also based upon a retail store providing a desired number of promotions during a particular time period.

SEPARATE HEADING REQUIREMENT - CLAIM 84

84. (New) The method according to claim 75, wherein said time is also based upon the desirability of said first consumer to a retail store.

As noted for claims 67-69, since Barnett does not disclose determining a time at which to transmit a subsequent promotion, and therefore does not suggest the additional dependency in each of claims 76, and 82-84

RESPONSE TO EXAMINER REASONING - CLAIMS 67, 76, AND 82-84

For the reasons stated in the prior section, Barnett does not disclose or suggest any claim. The only additional argument made in the OA in the rejections based upon 103 is an official notice. This official notice is improper because it in essence assumes the invention is old as the basis for rejection. No evidence supports the Notice, and therefore it is improper.

Moreover, the rationale for the official notice is flawed.. In taking official notice that "Official notice is taken that it is old and well known for promoters, advertisers and the like to account for how valuable or profitable a consumer is in order to time promotions accordingly.", the examiner reasons that "For example, a consumer that makes more purchases will receive offers more often than a consumer that doesn't redeem their offers in order to time offers accordingly." The conclusion is a non sequitur because receiving more coupons is not the same thing as receiving coupons at different times, and therefore there is no basis from the "example" for the officially noticed alleged fact. The same example was presented as the basis for the official notice that "Official Notice is taken that it is old and well known for retailers store and the like to issue coupons during a particular time period and for retailers to account for how valuable or profitable a consumer is in order to time promotions accordingly." and the same flaw in support of that noticed fact exists. Therefore, the additional "reasoning" in support of the 103

rejections, fails to make a prima facie case against any claim.

In view of the foregoing, all rejections of all claims should be reversed.

VIII. **37 CFR 41.37 (c)(1)** (continued)

H. **37 CFR 41.37 (c)(1)(viii) Claims Appendix**

Appendix I is attached which contains a copy of the claims involved in the appeal.

I. **37 CFR 41.37 (c)(1)(ix) Evidence Appendix**

There is no evidence. Appendix II is a blank page showing an Evidence Appendix.

J. **37 CFR 41.37 (c)(1)(x) Related Proceedings Appendix**

There are no decision in related appeals or interferences under (c)(1)(x) of this section. Accordingly, this section is inapplicable. A blank related proceedings appendix, Appendix III, page is attached to formally comply.

IX. **37 CFR 41.37 (c)(2)**

This brief does not include any new or non-admitted amendment or evidence.

X. **37 CFR 41.37 (d)**

This appeal brief complies with all the requirements of paragraph (c) of this section.

XI **37 CFR 41.37 (e)**

This notice of appeal and appeal brief are filed timely. Accordingly, no extensions of time are necessary.

7-21-2010

DATE

Respectfully Submitted,

/RichardNeifeld#35,299/

Richard Neifeld

Attorney of Record

Registration No. 35,299

RAN

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APPENDIX 1 - CLAIMS APPENDIX OF APPEALED CLAIMS

I. IN THE CLAIMS

This listing of claims replaces all prior listings.

1-65. (Cancelled).

66. (Previously presented) A computer-implemented method comprising steps of:

receiving, using an identification input device designed to receive identification information, a first consumer identification for a first consumer;

identifying, using a processor, promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer;

determining, using said processor, and based at least in part upon said first consumer promotions offer data, a first consumer demographic characteristic of said first consumer; and

determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer.

67. (Previously presented) The method according to claim 66, wherein said time is also based upon the desirability of said first consumer to a promoter.

68. (Previously presented) The method according to claim 66, wherein said time is also based upon the purchase history of said first consumer.

69. (Previously presented) The method according to claim 66, wherein said time is also based upon the promotion redemption history of said first consumer.

70. (Previously presented) The method according to claim 66, wherein said subsequent promotion is delivered to an address associated with said first consumer.

71. (Previously presented) The method according to claim 66, wherein said address is an Internet protocol address.

72. (Previously presented) The method according to claim 66, wherein said identification input device is a personal computer operated by said first consumer.

73. (Previously presented) The method according to claim 66, wherein said time is also based upon the value of said subsequent promotion offer.

74. (Previously presented) The method according to claim 66, wherein said

time is also based upon the provision method of a prior promotion offer.

75. (Previously presented) A computer-implemented method comprising steps of:

receiving, using a request input device designed to receive consumer target parameters, a first consumer target parameter;

receiving, using an identification input device designed to receive identification information, a first consumer identification for a first consumer;

identifying, using a processor, promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer;

determining, using said processor, and based at least in part upon said first consumer promotions offer data, a first consumer demographic characteristic of said first consumer; and

if said first consumer target parameter for a first consumer matches said first consumer demographic characteristic of said first consumer, determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer.

76. (Previously presented) The method according to claim 75, wherein said time is also based upon the desirability of said first consumer to a promoter.

77. (Previously presented) The method according to claim 75, wherein said time is also based upon the purchase history of said first consumer.

78. (Previously presented) The method according to claim 75, wherein said time is also based upon the promotion redemption history of said first consumer.

79. (Previously presented) The method according to claim 75, wherein said subsequent promotion is delivered to an address associated with said first consumer.

80. (Previously presented) The method according to claim 75, wherein said address is an Internet protocol address.

81. (Previously presented) The method according to claim 75, wherein said identification input device is a personal computer operated by said first consumer.

82. (Previously presented) The method according to claim 75, wherein said time is also based upon a promoter providing a desired number of promotions during a particular time period.

83. (Previously presented) The method according to claim 75, wherein said time is also based upon a retail store providing a desired number of promotions during a particular time period.

84. (Previously presented) The method according to claim 75, wherein said time is also based upon the desirability of said first consumer to a retail store.

85. (Previously presented) The method according to claim 75, wherein said time is also based upon the value of said subsequent promotion offer.

86. (Previously presented) The method according to claim 75, wherein said time is also based upon the provision method of a prior promotion offer.

87. (Previously presented) A system, comprising:

- an identification input device at a vendor interaction computer configured to receive a first consumer identification for a first consumer;
- a central database comprising a consumer identification table and a promotion table;
- a processor configured to identify, using a processor, promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer;
- a processor configured to determine a first demographic characteristic of said first consumer, based at least in part upon said first consumer promotions offer data; and
- a processor configured to determine a time at which to transmit to said first consumer a

subsequent promotion offer, based at least in part upon said first consumer demographic characteristic.

88. (Previously presented) A system, comprising:

- a promotion interaction site configured to receive, using a request input device, a first consumer target parameter;
- an identification input device at a vendor interaction computer configured to receive a first consumer identification for a first consumer;
- a central database comprising a consumer identification table and a promotion table;
- a processor configured to identify, using a processor, promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer;
- a processor configured to determine a first demographic characteristic of said first consumer, based at least in part upon said first consumer promotions offer data;
- a processor configured to determine if said first consumer target parameter matches said first demographic characteristic of said first consumer; and
- a processor configured to determine a time at which to transmit to said first consumer a subsequent promotion offer, based at least in part upon said first consumer demographic characteristic.

APPENDIX II - EVIDENCE APPENDIX

No evidence.

APPENDIX 3 - RELATED PROCEEDINGS APPENDIX

There are no decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph c(1)(ii) of this section.

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